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Tax and legal update

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- register of people with significant control of UK companies;
- consequences of getting it wrong – Relevant Contract Tax (RCT); and
- rent a room relief – the good, the bad and the administration.

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Cash flow planning at pay and file deadline 2017

Cash is king – especially come October. A trend of strong performance from investments assets, in particular rental returns, coupled with certain sectors returning to near previous peak income levels, will likely result in taxpayers facing increases in their **tax liabilities due in October 2017**.

In addition, where a taxpayer elects to pay their preliminary tax for 2017, based on 100% of their liability for 2016, there may be a significant cash outflow when it comes to the pay and file deadline.

It is advised that taxpayers engage with their advisors as early as possible to review all options available, allowing sufficient time to raise capital where necessary. Thus, in advance of the pay and file deadline it is worthwhile considering the basis on which you wish to make your 2017 preliminary tax payment, including the following.

105% of 2015

Elect to pay 105% of your tax liability for the pre-preceding year, ie 2015. This option is only available where you pay by direct debit, subject to a minimum number of direct debits and where you actually had a liability for 2015.

100% of 2016

Elect to pay based on 100% of your 2016 liability. Where you are in a refund position for 2016, i.e refund position before applying preliminary tax paid on account for 2016, there may be no requirement to pay preliminary tax for 2017. It is important to note that an adjustment to exclude any Employment and Investment Incentive Scheme (EIIS) claimed in 2016, must be made in calculating preliminary tax for 2017 where you use this option.

90% of 2017

You may base your preliminary tax payment based on 90% estimate of your actual tax liability for 2017 but an interest charge may arise where tax is underpaid. Nonetheless this can be a useful option where your assessable income has reduced or there is an increase in allowances/credits in 2017.

You may also wish to consider making a pension top-up before 31 October with a retrospective claim for relief on your 2016 tax return.

Register of people with significant control of UK companies

The requirement to keep a register of people with significant control (Person with Significant Control (PSC) register), was introduced into UK company law on 6 April 2016, with all UK private limited companies and Limited Liability Partnerships (LLPs) legally required to maintain a statutory register with information about the people who have significant control or influence over them.

From 30 June 2016, companies were required to submit the information held on their own PSC register to the central public register at Companies House when filing their first annual confirmation statement.

This filing regime changed on 26 June 2017 to align it with the fourth EU Money Laundering Directive, which requires all PSC information to be current.
With effect from this date, the PSC register is required to be updated within 14 days of the date of any change and the Companies House filing to be made within a further 14 days. The filings are now event driven and are no longer made on an annual basis.

The purpose of the PSC register is to improve corporate trust and transparency in the UK by making it clear to enforcement agencies, other businesses and the general public who ultimately own and control UK companies.

A PSC is an individual who meets one or more of the following conditions:

- directly or indirectly holds more than 25% of the company's issued share capital;
- directly or indirectly holds more than 25% of the company's voting rights;
- directly or indirectly holds the right to appoint or remove a majority of board of directors;
- has the right to exercise, or actually exercises, significant influence or control of the company or LLP; and
- where a trust or firm would satisfy one of the above four conditions if it were an individual, any individual holding the right to exercise significant influence or control over the activities of that trust or firm.

It is the legal responsibility of company directors, company secretaries and designated LLP members to obtain and confirm PSC information, maintain the entity's own PSC register and deliver the required PSC information to Companies House within the specified filing period.

Failure to comply with these requirements is a breach of statutory duties and a criminal offence with a personal fine and/or a prison sentence of up two years. Companies are legally required to keep information about PSCs for ten years after they have stopped being a PSC of the company. Their details will be kept by Companies House indefinitely.

Please contact us should you have any queries in relation to your UK company compliance filing requirements.

Consequences of getting it wrong – Relevant Contract Tax (RCT)

Aside from determining when a particular project is within the scope of RCT, perhaps the most challenging aspect of RCT is the administrative demands its operation places on principal contractors (principals).
From 1 January 2015, a revised scheme of 'payment geared' penalties was introduced for principals who fail to correctly operate RCT on payments to sub-contractors. Section 530F of the Taxes Consolidation Act 1997 (TCA 1997) provides for a penalty where a principal makes a payment to a sub-contractor without having the required deduction authorisation.
The penalty that a principal will be liable for will be proportionate to the amount of the tax that should have been deducted. From 1 January 2015, the penalty for each instance of non-operation of RCT is based on the status of the sub-contractor.

As the table demonstrates, non-compliance in the area of RCT can potentially be extremely costly for those in default:

Type of sub-contractor	Rate of penalty
Unknown	35%
0%	3%
20%	10%
35%	20%

Since January 2012, the rate applicable to each sub-contractor is determined by their tax compliance history and status:

Status of sub-contractor	Rate of RCT
Good compliance record	0%
Registered for RCT as a sub-contractor with a reasonable compliance record	20%
Contractors unknown to Revenue (not RCT registered) or those known for chronic non-compliance	35%

In addition, section 1052(1)(b) of the TCA 1997 provides for a fixed penalty of €3,000 for a failure to comply with RCT obligations. Where a body of persons, (a company) is in default, the fixed penalty is €4,000 with the secretary of that body of persons being liable to a separate fixed penalty of €1,000.

Rent a room relief – The good, the bad and the administration

Rent a room relief

If you let a room in your home during 2016, the income you received may be exempt from tax but you are not exempt from filing a tax return by **31 October 2017** (14 November by Revenue Online Service (ROS) extension).

The good

With effect from 1 January 2017, the gross income which is exempt from income tax, PRSI and USC was increased to €14,000 (€12,000 in 2016). Subject to conditions, an individual does not have to own the property to claim relief.

The bad

As the fourth quarter of 2017 is nearly upon us, taxpayers should be mindful that once the above exemption limit is exceeded in a calendar year, the total amount of the income becomes taxable. Relief against income received for the use of the room(s) from your child or civil partner, an employer/employee or short term guests including those who book accommodation through online booking sites, eg Airbnb, cannot be claimed.

The administration

Those who claim rent a room relief for 2016 must declare this income using the ROS to enter the amount of exempt income on a Form 11 if a self-assessed tax payer. Individuals must use 'My Account' on ROS to enter the amount of exempt income on a Form 12 if their main source of income is from a PAYE employment, by the deadlines outlined above.

Offices in Dublin, Belfast, Cork, Galway, Kildare, Limerick and Longford.

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